

NACDL Full Disclosure Project Application

1) Tell us about yourself and your organization/agency

- Your name
- Your Title
- Your Email Address
- Your Phone Number
- Name of Your Organization/Agency
- Organization/Agency's Web Address
- Which Best Describes Your Organization/Agency?
(federal-funded government agency; state-funded government agency; county/local-funded government agency; non-profit or not-for-profit organization; public or private academic institution; private firm providing public defense by contract, grant, or individual case assignments; other (please describe))
- I am a Federal Public Defender Office
- I am a Federal Community Defender Office
- How many attorneys work in your organization/agency?
- How many support personnel work in your organization/agency (investigators, social workers, etc.)?
- What cities, counties, or judicial district(s) does your organization/agency cover?
- Which of the following jurisdictions your organization/agency appear in? (mark all that apply)
 - Municipal/Justice of the Peace courts
 - State trial court
 - State appellate court
 - Federal trial court
 - Federal appellate court
 - Tribal court
 - Immigration court
 - Other (please describe)
- Which of the following case types does your organization/agency handle? (mark all that apply) [juvenile delinquency/criminal; juvenile abuse & neglect; termination of parental rights; adult misdemeanor; adult felony; adult capital; direct appeal; post-conviction criminal; post-conviction capital; other (please describe)]
- Focusing on the three most common case types your organization/agency handles, what is the average number of cases/year of each type? [use either text box for answer or provide case type list with text box next to each; could also combine these 2 questions into a single question of case types and average caseload/yr.]

2) Tell us about your organization/agency's ability to support a Law Enforcement Accountability Database.

- Do you have any funding dedicated to starting a project like this? If so, please describe the nature of the funding, including whether the funds are from a government agency or

private organization; whether the funding has any time limits or deadlines; whether the funding has any specific requirements, limitations or restrictions on its use; and whether the funding is renewable.

- Do you have any dedicated staff person(s) who could administer the database full time?
 - If yes, please describe their position and technical skills.
 - If not, are you able and willing to hire one and what would be the anticipated timeline to do so?
- Does your organization/agency have staff members who would be available to assist in any litigation needed to obtain police misconduct data? If yes, please provide their role/title and describe how they would be able to provide litigation support.
- Do you have a training unit or other dedicated staff that could assist with training attorneys on how to use the application and use police misconduct data in court?
- Do you have a technology unit or other dedicated staff that could assist with any software troubleshooting or maintenance?

3) Tell us about your jurisdiction?

- Which law enforcement agencies effect arrests and/or investigate criminal charges in your jurisdiction?
- Which statement best describes your state's public defense delivery system? (if you are a federal defender organization, skip this question)
 - Most/all jurisdictions are served by an institutional public defender office.
 - At least half of the jurisdictions are served by an institutional public defender office.
 - Few/none of the jurisdictions are served by an institutional public defender office.
 - Other (please describe)
- In addition to your organization/agency, are there other public defense service providers in your jurisdiction that deal with cases from the same law enforcement agencies that you do?
 - If Yes: please list the agency's name and contact information.
 - Have you discussed sharing information and/or accessing the same database?
 - Do you work collaboratively with them on other projects/matters?
- Are you aware of any existing projects in your jurisdiction that track or document police misconduct? If yes please provide the project's name, website (if any), and any other information you are aware of regarding their work.
- Are you aware of any restrictions in your jurisdiction relating to the sharing of police misconduct data or information? If yes, please describe
- Are you aware of any caselaw, rules, statutes, regulations, etc. in your jurisdiction that permit defense attorneys to access police disciplinary records? If yes, please describe (and include links or citations to relevant provisions)

- Are you aware of any caselaw, rules, statutes, regulations, etc. in your jurisdiction that prevent or limit defense attorneys' access to police disciplinary records? If yes, please describe (and include links or citations to relevant provisions)
- Are you aware of any caselaw, rules, statute, regulations, etc. in your jurisdiction that would make a defender database vulnerable to a Freedom of Information request, or eligible for subpoena by law enforcement or the prosecution?

4) Tell us about your technology infrastructure.

- Who is responsible for your organization/agency's technology infrastructure?
- Does your office currently track police misconduct in any way?
 - If yes:
 - Please describe what system you use, how you organize the data, what data you track, and who has access to the system.
- Does your office have a case management system?
 - If yes:
 - What system are you using?
 - Does the system allow you to track the officer(s) involved with each case?
 - If so, does your office currently track this data?
- Does your office have an electronic staff directory that permits single sign on (allows you to use the same credentials to login to multiple services)?

5) Licensing Agreement

- Would your organization/agency be able to sign the sub-licensing agreement (see below)?
 - a. If no:
 - What barriers currently prevent your organization/agency from signing the sublicensing agreement?
- is your organization able to use software licensed under an open-source license, such as the MIT license or GNU General Public License 3? If not, please explain why.

6) Please provide any additional information we should know in connection with your application.

Source Code Sublicense Agreement

This Source Code Sublicense Agreement (this “**Agreement**”), effective as of _____, 2020 (the “**Effective Date**”), is by and between the National Association of Criminal Defense Lawyers (“**NACDL**”), a District of Columbia 501 (c)(6) non-profit corporation located at 1660 L St. NW, 12th Floor, Washington, DC 20036 and _____, with an office located at _____ (“**Sublicensee**”), (each, a “**Party**” and collectively, the “**Parties**”).

WHEREAS, NACDL holds a license to the Software (defined below) and other materials from LAS (defined below) and holds a license to operate a law enforcement accountability database (the “**NACDL Platform**”); and

WHEREAS, Sublicensee desires to obtain a perpetual license to the Software for the NACDL Platform in order to develop and host their own respective law enforcement accountability database platforms, on the terms and conditions set forth in this Agreement; and

WHEREAS, NACDL desires to provide such a license to Sublicensee.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Definitions

1.1 “**Affiliate**” means any entity that is Controlling, is Controlled by, or under common Control of any other entity, where the term “**Control**” and its derivatives mean the possession of the power to direct or cause the direction of the management and policies of an entity, whether directly or indirectly, and whether through the ownership of voting securities or other beneficial interests, by contract or otherwise.

1.2 “**Intellectual Property Rights**” means: (a) copyright rights (including the right to use the copyrighted work); (b) trademark rights (including trade names, trademarks, service marks, and trade dress); (c) patent rights (including the right to make, use, offer for sale, sell and import) (d) trade secrets; (e) moral rights; (f) right of publicity; (g) right of privacy; (h) authors’ rights; (i) contract and licensing rights; (j) goodwill; (k) all other intellectual property rights that may exist now or come into existence; and (l) all renewals and extensions thereof, regardless of whether those rights arise under the law of the United States or any other state, country, or jurisdiction throughout the world.

1.3 “**LAS**” means the Legal Aid Society, a New York 501(c)(3) non-profit organization.

1.4 “**LAS Modifications**” means any and all Modifications developed by or on behalf of LAS.

1.5 “**Modification**” means any and all changes to the Software. This includes any corrections, enhancements, extensions, additions, improvements, modifications, revisions, upgrades, new versions, additions to, and derivatives works of, the Software.

1.6 **“Software”** means the Source Code versions of the software for the NACDL Platform, including all modules and libraries associated therewith and all components listed on **Exhibit A (Licensed Software)**.

1.7 **“Source Code”** means the human readable form of software: (a) including written comments and programmer documentation, flow charts, data files, text listing of commands to be compiled or assembled into an executable computer program, system-level scripts to support installation and release of software, system scripts for administration of a platform, configuration files for tools, logic diagrams, pseudo code, notations or other supporting writings; (b) regardless of the media on which it is stored; and (c) that is either (i) intended for translation into binary code, object code, executable code or any intermediate form, or (ii) is intended for direct execution through interpretation.

1.8 **“Sublicensee Content”** means any data or content incorporated into the Sublicensee Platforms. This includes data and content generated or collected in using and providing the Sublicensee Platform, whether by the Sublicensee or on its behalf.

1.9 **“Sublicensee Modifications”** means any and all Modifications developed by or on behalf of Sublicensee.

1.10 **“Sublicensee Platform”** means, with respect to Sublicensee, any software or platform developed by or on behalf of the Sublicensee that incorporates the Software and any Modification thereto.

1.11 **“NACDL Content”** means any data or content incorporated into, or generated or collected using or providing, the NACDL Platforms by or on behalf of NACDL.

1.12 **“NACDL Modifications”** means any and all Modifications developed by or on behalf of NACDL.

1.13 **“Third-Party Sublicensee Content”** means any data or content incorporated into, or generated or collected using or providing, the Third-Party Sublicensee Platforms by or on behalf of the Third-Party Sublicensees.

1.14 **“Third-Party Sublicensee Modifications”** means any and all Modifications developed by or on behalf of a Third-Party Sublicensee.

1.15 **“Third-Party Sublicensee Platform”** means, with respect to a Third-Party Sublicensee (as defined below), any software or platform developed by or on behalf of such Third-Party Sublicensee that incorporates the Software and any Modification thereto.

1.16 **“Use”** means to install, load, execute, access, employ, improve, configure, customize, copy, reproduce, distribute, perform, display and create Modifications or display, process, manipulate, distribute, store and otherwise exploit information resulting from such capabilities. For avoidance of doubt, “Use” includes Use of the Software on or through any platform or channel (including, *e.g.*, mobile or remote access), whether now existing or later developed.

2. License

2.1 License Grant.

(a) NACDL grants to Sublicensee a perpetual, royalty-free, fully paid-up, non-exclusive, sublicensable (subject to the restrictions contained herein), and worldwide right and license to:

- i. Use the Software (in Source Code form) under all Intellectual Property Rights thereto solely for the purposes of developing, testing, hosting, providing, maintaining, and supporting the Sublicensee Platforms and the Sublicensee Content on Sublicensee's or its Service Providers' (as defined below) systems and network infrastructure; and
- ii. if Sublicensee is a state-wide organization, enter into sublicenses with any defense entity within its state or locality who has agreed in writing to observe the same terms and restrictions of the license set forth in this Section (each, a "**Third-Party Sublicensee**") authorizing each Third-Party Sublicensee to Use the Software (in Source Code form) under all Intellectual Property Rights thereto for the purposes of developing, testing, hosting, providing, maintaining, and supporting Third-Party Sublicensee Platforms and the Third-Party Sublicensee Content on such Third-Party Sublicensee's or its Service Providers' systems and network infrastructure.

(b) This Sublicense shall be subject to termination under Section 7 of this Agreement.

(c) NACDL reserves all Intellectual Property Rights and all other rights in the Software and LAS Modifications and/or NACDL Modifications thereof that are not expressly granted hereunder.

(d) Nothing herein shall obligate NACDL to provide any integration, development, or support services to Sublicensee for the Software or otherwise or create any responsibility for NACDL to pay for or reimburse any cost or expense associated with such activities.

2.2 License Restrictions and Requirements. Except as otherwise provided in this Agreement, Sublicensee shall (and shall require its Third-Party Sublicensees to): (a) keep all copies of the Software and LAS Modifications or NACDL Modifications in the possession of Sublicensee (or Third-Party Sublicensees) and not provide the Software, LAS Modification or NACDL Modification to any other third parties (or make it available to them); (b) not remove any product identification, copyright or other notices from any copies of the Software;; and (c) only permit those personnel, authorized contractors, and Service Providers with a need to know to assist Sublicensee to Use the Software.

2.3 Third-Party Sublicensee Restrictions. In any sublicense agreement with Third-Party Sublicensees, Sublicensee shall require such Third-Party Sublicensees to abide by the applicable terms, conditions, obligations, restrictions and limitations of this Agreement, and shall further provide that Third-

Party Sublicensees shall have no right to sublicense their rights to the Software, NACDL Modifications or the LAS Modifications Sublicensee to any third party.

2.4 Third Party Service Providers. Sublicensee may permit third party suppliers of products and services (such as disaster backup and recovery services) ("**Service Providers**") to Use the Software pursuant to the licenses set forth in this Section 2 and the terms of this Agreement to provide products and services to Sublicensee and to support Sublicensee's operations; provided that Sublicensee shall remain at all times liable and responsible for all such permitted Uses of Software by Service Providers to the same extent that Sublicensee is responsible for its own Use hereunder, and shall ensure that any such Service Provider is contractually obligated to abide by all applicable terms, conditions, and restrictions herein with respect to said Service Provider's Use of Software.

3. Delivery. NACDL shall deliver the Source Code version of the Software (in electronic format and as it exists as of the Effective Date) to the Sublicensee within 10 business days of the Effective Date.

4. Ownership

4.1 NACDL Intellectual Property. Sublicensee acknowledges that the Software, as delivered to Sublicensee, and all Intellectual Property Rights therein are licensed by NACDL from LAS, and any NACDL Modifications, will be and will remain the property of Sublicensee. Nothing herein shall constitute or be construed as any sale, assignment, or other transfer by NACDL or LAS of any rights in or to the Software, including without limitation any Intellectual Property Rights. NACDL may provide to Sublicensee, LAS Modifications or NACDL Modifications in Source Code form, and Sublicensee may Use any such Modification under the rights granted to Sublicensee for the Software generally under Section 2.1.

4.2 Sublicensee Intellectual Property. The Sublicensee Platform, any Sublicensee Modifications, any Sublicensee Content, and any and all Intellectual Property Rights therein shall be solely owned by Sublicensee. Sublicensee has the sole right to determine the branding of the Sublicensee Platform or any Third-Party Sublicensee Platform at its discretion.

5. Confidentiality

5.1 **Confidential Information.** From time to time in the performance of this Agreement, a Party (the "**Disclosing Party**") may disclose or share certain Confidential Information with the other Party (the "**Receiving Party**"). "**Confidential Information**" means non-public information in any form or medium (whether oral, written, electronic or other) that is confidential or proprietary to the Disclosing Party. This includes information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, operations, plans, and strategies, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations. Confidential Information may be marked or labeled as "confidential" or "proprietary," but Confidential Information also includes information that the Receiving Party should reasonably know to be confidential or proprietary to the Disclosing Party under the circumstances of disclosure. Confidential Information includes the Confidential Information of a third party that is in the possession or control of a Party. Confidential Information does not include information that: (i) was rightfully known to the Receiving Party without restriction on use or disclosure prior to receipt of such information from the Disclosing Party; (ii) becomes generally known by the public without the breach,

negligence, or other wrongdoing of the Receiving Party; (iii) is rightfully received by the Receiving Party by a third party which is under no obligation of confidentiality with respect to such information; or (iv) was independently developed by the Receiving Party without reference to or use of any portion of Confidential Information, as demonstrated by the Receiving Party's written records.

5.2 Restrictions on Use. The Receiving Party shall not use the Disclosing Party's Confidential Information except to perform its obligations or exercise of its rights under the Agreement. The Receiving Party shall not copy, reproduce, modify, or disclose Confidential Information without the Disclosing Party's express prior written consent. The Receiving Party shall exercise at least the same degree of care (to prevent unauthorized disclosure or use of Confidential Information that it employs with respect to its own information of a like nature, and shall exercise no less than a reasonable degree of care in doing so. The Receiving Party may disclose Confidential Information to its employees, officers, executives, directors, agents, consultants, and professional advisors (and with respect to Sublicensee, to its Third-Party Sublicensees), who have a need to know such Confidential Information in furtherance of the Receiving Party's obligations or in connection with the enforcement of its rights under this Agreement, and who have agreed to be bound by confidentiality obligations at least as strict as those set forth herein, provided that in any event the Receiving Party shall be responsible for any unauthorized use or disclosure of Confidential Information by such employees, agents, and professional advisors (and, with respect to Sublicensee, its Third-Party Sublicensees).

5.3 Compelled Disclosure. If the Receiving Party is ordered, as part of an administrative or judicial proceeding of competent jurisdiction or other operation of applicable law, to disclose any of the Disclosing Party's Confidential Information, the Receiving Party will, to the extent permitted by law: (a) notify the Disclosing Party of such request as promptly as practicable; (b) cooperate with the Disclosing Party, at the Disclosing Party's expense, in seeking a protective order or similar confidential treatment for such Confidential Information; and (c) disclose only those portions of Confidential Information strictly required for compliance with said order or law.

5.4 Return of Confidential Information. As promptly as practicable upon the written request of the Disclosing Party at any time, the Receiving Party shall, at the Disclosing Party's option, either: (a) return all Confidential Information in its possession or control in any tangible or intangible medium, including any copies or reproductions thereof, to the Disclosing Party, or (b) destroy all Confidential Information in its possession or control in any tangible or intangible medium, including any copies or reproductions thereof, and deliver a written certification of such destruction to the Disclosing Party. Notwithstanding the foregoing, the Receiving Party may retain Confidential Information: (i) to comply with applicable law or professional standards; or internal document retention policy, or (ii) as part of its automatic electronic archiving and back-up procedures; in either case provided that such Confidential Information so retained may be used solely for nonpublic, non-commercial internal archival and/or compliance purposes and for no other purpose, and shall otherwise remain subject to all of the Receiving Party's confidentiality obligations under this Section.

5.5 Injunctive Relief. The Parties acknowledge that a breach of a Receiving Party's confidentiality obligations hereunder may cause the Disclosing Party to suffer irreparable harm in amount not easily calculated as money damages. Accordingly, the Parties agree that, in the event of any such actual or threatened breach by the Receiving Party, the Disclosing Party shall have the right to seek

preliminary or final injunctive relief to enjoin or restrain the disclosure or use of Confidential Information, in addition and without prejudice to any other remedy available to the Disclosing Party at law or in equity.

6. Representations and Warranties; Warranty Disclaimer

6.1 Warranties.

(a) Mutual. Each Party represents and warrants that (A) it shall comply with all applicable laws and regulations in the performance of its obligations hereunder and (B) it possesses all legal rights (including all Intellectual Property Rights) required to grant the rights and licenses contemplated by this Agreement. Each Party further represents and warrants that: (i) it has all right, power, and authority to enter into this Agreement and to perform its obligations and duties set forth hereunder; and (ii) its execution, delivery, and performance of this Agreement does not and will not conflict with or violate any other agreement, judgment, or order by which such Party is bound.

6.2 Warranty Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, NACDL MAKES NO WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE SOFTWARE AND/OR SUBJECT MATTER OF THIS AGREEMENT. TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW, EACH PARTY SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS, INCLUDING WITHOUT LIMITATION THOSE OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING DISCLAIMER, NACDL DOES NOT WARRANT THAT ANY SOURCE CODE WILL OPERATE UNINTERRUPTED OR ERROR-FREE.

7. Term and Termination

7.1 Term. The term of this Agreement begins on the Effective Date and shall continue thereafter in perpetuity, unless earlier terminated pursuant to this Section.

7.2 Termination. Sublicensee may terminate this Agreement at any time, without cause, upon sixty (60) days' notice to NACDL. NACDL may terminate this Agreement immediately upon written notice to Sublicensee in the event of Sublicensee's material breach of its obligations hereunder and such material breach is not cured within sixty (60) days after receiving notice of such material breach from NACDL. NACDL may terminate this Agreement at any time, without cause, upon 90 days' notice to Sublicensee. Upon the termination of this Agreement for any reason, except as otherwise expressly set forth hereunder and subject to Section 4.2, all licenses granted hereunder to Sublicensee shall immediately terminate. For the avoidance of doubt, nothing in this Agreement shall preclude Sublicensee from using the Sublicensee Modifications beyond such termination of this Agreement, and to the extent that any of the Software (including its Source Code) and any NACDL Modifications are embedded or incorporated into the Sublicensee Platform, Sublicensee shall have the right to continue to use the Software, LAS Modifications, and NACDL Modifications in order to make use of the Sublicensee Platform and Third-Party Sublicensee Platforms into which the Software, NACDL Modifications, or LAS Modifications are embedded or incorporated. Sublicensee may not extract the Software, NACDL Modifications, or LAS Modifications from the Sublicensee Platforms for use separately therefrom, except to the extent necessary to prepare updates, enhancements, or modifications to the Sublicensee Platform.

8. Indemnity

8.1 NACDL will defend, indemnify, and hold harmless Sublicensee and its respective personnel, against any and all third party claims, demands, suits, actions, or proceedings alleging that Sublicensee's authorized and proper Use of the Software, NACDL Modification or any LAS Modification infringes, misappropriates or otherwise violates the proprietary or Intellectual Property Rights of a third party; provided, that NACDL will have no liability for any claim of infringement to the extent that the claim results directly and solely from: (a) Sublicensee's use of a Sublicensee Modification; (b) combination of the Software with any material not provided by NACDL or intended or contemplated for use with the Software; or (c) Sublicensee's use of the Software in any manner expressly prohibited by this Agreement.

8.2 Sublicensee will defend, indemnify, and hold harmless NACDL, LAS, its Affiliates, and their respective personnel, employees, officers, directors, contractors, agents, and successors against any and all third party claims, demands, suits, actions, or proceedings: (a) alleging that any Sublicensee Modifications and/or Sublicensee Content infringes, misappropriates, or otherwise violates the proprietary or Intellectual Property Rights of a third party, or (b) brought by a third party whose information has been disclosed on the Third-Party Sublicensee Platform in an unlawful manner or by a government entity in connection with the unlawful disclosure of information by the Sublicensee Platform.

8.3 The indemnified Party will notify the indemnifying Party in writing of the claim promptly after the indemnified Party receives written notice of such claim, provided that failure to give such notice shall not excuse the indemnifying Party from its obligations hereunder except to the extent that the indemnifying Party is prejudiced directly from such delayed notice. The indemnifying Party shall have sole control of the defense for all claims arising under this Section and all related settlement negotiations, provided that the indemnifying Party may not enter into any settlement that requires an admission of guilt, wrongdoing, or other liability on behalf of the indemnified Party without first obtaining the indemnified Party's prior written consent. The indemnified Party will provide the indemnifying Party with the assistance, information, and authority reasonably necessary for the indemnifying Party to perform its obligations under this Section. The indemnified Party may at any time participate in the defense of an indemnifiable claim hereunder at its own cost and expense.

9. Limitation of Liability

A PARTY'S TOTAL AGGREGATE LIABILITY TO THE OTHER PARTY UNDER ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED ONE HUNDRED U.S. DOLLARS (U.S. \$100.00), EXCEPT IN CONNECTION WITH A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 8, IN WHICH CASE A PARTY'S TOTAL AGGREGATE LIABILITY TO THE OTHER PARTY SHALL NOT EXCEED ONE MILLION U.S. DOLLARS (U.S. \$1,000,000.00). EXCEPT IN CONNECTION WITH A PARTY'S BREACH OF ITS RESPECTIVE CONFIDENTIALITY OBLIGATIONS HEREUNDER, A PARTY SHALL NOT BE LIABLE UNDER THIS AGREEMENT FOR ANY INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, WHETHER BASED UPON CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, RESULTING FROM OR IN CONNECTION WITH THE PERFORMANCE BY SUCH PARTY OF ITS OBLIGATIONS UNDER THIS AGREEMENT, WHETHER FORESEEABLE OR NOT, AND EVEN IF SAID PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. Miscellaneous

10.1 **Notices.** All notices required under this Agreement must be in writing. Notice will be deemed effective upon: (a) actual delivery to the other Party, if delivered in person, or by national overnight courier with delivery confirmation; or (b) upon receipt after being sent by certified mail, signature required, postage prepaid. Notices shall be sent to the contact addresses listed above.

10.2 **Independent Contractors.** The Parties hereto are independent contractors, and nothing in this Agreement shall constitute or be construed as creating a joint venture, partnership, employment relationship, or agency relationship between the Parties.

10.3 **No Third Party Beneficiaries.** This Agreement is for the benefit of the Parties and their successors and permitted assigns and is not intended to confer any rights or benefits on any third party.

10.4 **Assignment.** A Party may not assign any of its rights or delegate any of its obligations under this Agreement, whether by operation of law or otherwise, without the prior express written consent of the other Party. Any assignment in violation of this provision shall be null and void. Subject to the foregoing, this Agreement will bind and inure to the benefit of the Parties and their respective successors and permitted assigns.

10.5 **Entire Agreement; Written Amendment.** This Agreement, including all Exhibits hereto, constitutes the complete agreement between the Parties with respect to its subject matter, and supersedes any prior or contemporaneous communications, representations, or understandings between the Parties, whether oral or written. There are no terms, promises, or representations that have induced either Party to enter this Agreement, except those which are expressly and specifically set forth in the Agreement. The terms and conditions of this Agreement may only be modified by an amendment in writing, which references this Agreement and is signed by a duly authorized representative of each Party.

10.6 **Waiver; Severability.** No failure or delay by any Party in exercising any right or remedy under this Agreement will operate or be deemed as a waiver of any such right or remedy. Any provision of this Agreement that is held to be unenforceable in any jurisdiction will be ineffective only as to that jurisdiction, and only to the extent of the unenforceability of such provision without invalidating the remaining provisions hereof.

10.7 **Survival.** Any provisions which expressly by their terms or should by their nature survive termination of this Agreement shall survive the termination or expiration of this Agreement for any reason.

10.8 **Dispute Resolution.** If any dispute arises related to this Agreement or any transaction governed by this Agreement, the Parties will meet and attempt in good faith to resolve the dispute prior to initiating any legal proceedings.

10.9 **Governing Law; Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of New York, without reference to its principles of conflict of laws. Subject to Section 10.8, the Parties agree that any claim, suit, dispute, or other legal proceeding arising under this Agreement shall be brought exclusively before the state and federal courts sitting in county or state in

which the Sublicensee is located and the Parties hereby expressly and irrevocably submit to the jurisdiction thereof for the resolution of all such claims, suits, disputes, or proceedings.

10.10 Construction. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. Whenever the words “include,” “includes” or “including” are used in this Agreement, they will be deemed to be followed by the words “without limitation.”

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date written above.

NACDL

Sublicensee

NATIONAL ASSOCIATION OF CRIMINAL
DEFENSE LAWYERS

[XXXXXXXXXX]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit A

Licensed Software

The Software consists of a web application that allows authenticated users (“Authorized Users”) to retrieve information from a database comprised of information concerning police misconduct. Two-factor authentication is enforced for all users. It is possible to integrate authentication with an organization’s electronic staff directory to authenticate access for all staff in an organization.

Authorized Users with administrative privileges (“Administrators”) can add, edit, and remove content and other Authorized Users. Content that can be uploaded by Administrators includes but is not limited to: Descriptions of specific incidents of police misconduct; descriptive information pertaining to those incidents; police officer pay and benefits; documents, including settlement agreements, from litigation involving police misconduct; other types of files, such as video files; and web links to content on external websites. Administrators can also enter confidential civilian information for Administrator-use only, such as identities of victims.

Administrators can set user permissions for viewing each piece of content, and link content to specific police officers and civilians. Officers can be linked to commands, as well as other officers (for instance, if two officers were named in the same litigation).

Authorized Users who are not Administrators (“Staff Users”) can search for police officers or commands using several parameters, including full name and shield/badge number. A Staff User who looks up an officer or command will see all linked content that the Staff User has permission to view.

Administrators can make their organization a Host Organization by granting guest administrative access to users from approved external organizations (“Guest Administrators”). Guest Administrators can view, add, edit, and remove content with guest permissions, and can add users from their own organization (“Guest Organization”) as Guest Staff. Guest Staff can view content belonging only to their Guest Organization. A Guest Administrator can either enable or prohibit Staff Users from the Host Organization from viewing content belonging to the Guest Organization.